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ACT NO. 9 OF 2011

National Identity Cards Act, 2011

An Act to provide for the establishment of a National Identity Register, the issuance of national identity cards to persons whose particulars are included in the national identity register and for related matters.

Enacted by the Parliament of Lesotho.

PART I – PRELIMINARY

Short title and commencement

1. This Act may be cited as the National Identity Cards Act, 2011 and shall come into operation on a date to be appointed by the Minister by notice published in the Gazette.

Interpretation

2. In this Act unless the context otherwise requires -
 - “bearer” means a holder of a national identity card in terms of this Act;
 - “Director” means the director responsible for national idendity cards;
 - “headman” has the meaning assigned to it in the Chieftainship Act, 1968¹;
 - “identity card” means the national identity card issued under section 11;
 - “indefinite residence permit” has the meaning assigned to it in the Aliens Control Act, 1966² or a law replacing this Act;

“Minister” means the Minister responsible for National Identity Register and national identity cards;

“prescribed” means prescribed by regulations;

“Register” means national identity register as contemplated in Part II of this Act.

PART II – NATIONAL IDENTITY REGISTER

National Identity Register

3. (1) There is established a National Identity Register.
- (2) The Register is established to -
 - (a) facilitate the maintenance of a record of prescribed personal information about citizens of Lesotho and non-citizens holding an indefinite residence permit of Lesotho;
 - (b) ensure the existence of accurate and reliable information about the person referred to in paragraph (a); and
 - (c) be used for specific purposes permitted or prescribed in terms of this Act or any other law.

Persons to be entered in the Register

4. (1) The Director shall make an entry in the Register for a person who -
 - (a) is entitled to be entered in it; and
 - (b) applies to be entered in it, in the case of children, a parent or legal guardian shall apply on their behalf.
- (2) A person who is entitled to be entered in the Register is a -
 - (a) citizen of Lesotho; and

(b) non-citizen holding an indefinite residence permit of Lesotho.

(3) The Director shall, as soon as practicable, obtain from a person mentioned in subsection (2) the particulars set out in subsection (4) for the compilation and maintenance of the Register in the manner prescribed by the Minister.

(4) Notwithstanding any power conferred by the provision of Registration of Births and Deaths Act, 1973³ or any other law replacing it, for the purpose of this Act, the Director shall compile and maintain the register of all births and deaths.

(5) Notwithstanding any power conferred by the provisions of Marriage Act, 1974⁴ or any other law replacing it, for the purpose of this Act, the Director shall compile and maintain the register of all marriages and divorces.

(6) The following particulars of eligible persons shall be included in the Register -

- (a) identity number;
- (b) full names and surname;
- (c) nationality;
- (d) passport number in the case of non-citizens;
- (e) date and place of birth;
- (f) gender;
- (g) residential address;
- (h) postal address, if applicable;
- (i) telephone number, if applicable;
- (j) marital status;

- (k) maiden names;
- (l) headman;
- (m) principal chief;
- (n) occupation
- (o) work place, if any;
- (p) address of work place, if any;
- (q) parents;
- (r) next of kin;
- (s) relation of next of kin;
- (t) address and telephone number of next of kin;
- (u) image in the case of a person who has attained the age of sixteen;
- (v) fingerprints in the case of a person who has attained the age of sixteen;
- (w) any other information that the Minister may prescribe.

Assignment of identity numbers

5. An entry made in the Register about a person shall be assigned a unique number to be known as the person's National Identity Number which shall comply with prescribed requirements.

Access to the Register and confidentiality of information

6. (1) No person shall -
- (a) have access to the Register; or

- (b) record or amend particulars entered in the Register, unless specifically authorized by the Director.

(2) The Director may, with the approval of the Minister, authorise provision of information in the Register -

- (a) to a third party in accordance with the instructions of the person to whom the information relates;
- (b) to a Government department, statutory body or private entity in the interests of public order, public safety and public health; or
- (c) to a juristic or legal person whose primary business activity is -
 - (i) insurance as defined by the Insurance Act, 1976⁵ or a law replacing this Act;
 - (ii) banking as defined by the Financial Institutions Act, 1999⁶ or a law replacing this Act;
 - (iii) credit provision as defined by the Financial Institutions Act, 1999 or a law replacing this Act;
 - (iv) property credit provision; or
 - (v) credit bureau,

for the performance or conclusion of a contract with the person to whom the information relates, for fraud prevention and fraud detection, or to uphold the legitimate interests of the requestor for verification of particulars entered in the Register.

(3) Subsection (1) shall not apply to a person who seeks access to his or her information entered in the Register.

(4) A person who provides adequate proof of his or her identity has the right to request from the Director, a description of his or her personal infor-

mation entered in the Register and the information shall be provided -

- (a) within a reasonable time; and
- (b) at a prescribed fee.

(5) A person who has been given access to his or her information may request that the Director correct inaccurate or outdated information.

(6) A person who has requested that his or her information be corrected shall provide credible evidence of the updated information which shall be verified by the Director in accordance with this Act.

(7) The Minister may prescribe, from time to time, persons who may have access to the Register for prescribed purposes.

Data security

7. (1) A person shall not publish or communicate to any other person any information recorded in the Register or an identity card except for -

- (a) purposes of this Act;
- (b) judicial proceedings; or
- (c) the performance of his or her functions in terms of any other Law.

(2) A person who comes into possession of information which to his or her knowledge has been communicated to him or her in contravention of this Act, shall not publish the information or communicate it to any other person.

(3) The Director shall secure the integrity of personal information in his or her possession or under his or her control by taking appropriate, reasonable technical and organizational measures to prevent -

- (a) loss of, damage to or unauthorized destruction of personal information entered in the Register; and
- (b) unlawful access to personal information entered in the Register.

(4) In order to give effect to subsection (3), the Director shall take reasonable measures to -

- (a) identify all reasonably foreseeable internal and external risks to personal information entered in the Register;
- (b) establish and maintain appropriate safeguards against the risks identified;
- (c) regularly verify that the safeguards are effectively implemented; and
- (d) ensure that the safeguards are continually updated in response to new risks or deficiencies identified in previously implemented safeguards.

(5) The Director shall have due regard to generally acceptable information security practices and procedures which may apply to public registers of personal information.

(6) A third party accessing information from the Register on the authority of the Director shall treat personal information which comes to his or her knowledge as confidential and shall not disclose it unless required by law or in the course of proper performance of his or her duties.

(7) The Director shall maintain the security measures referred to in subsection (3) when giving a third party access to personal information entered in the register.

Data accuracy and quality

8. (1) The Director shall take reasonable practicable steps to ensure that personal information entered in the Register is complete, accurate and updated where necessary.

(2) The Director may require a person, Government department or statutory body that may have information or a document which could be used to verify or validate information -

- (a) recorded in the Register; or
- (b) provided to the Director for the purpose of being entered in the Register,

to provide the information or produce the document.

(3) Every person to whom an identity card has been issued shall notify the Director about every -

- (a) change of circumstance affecting the information recorded about him or her; or
- (b) error in that information of which he or she is aware.

PART III – IDENTITY CARDS

Issuance and validity of identity card

9. An identity card shall be issued in the name of the King and shall be valid for a period of ten years.

Inalienability of identity card

10. An identity card shall remain property of Government.

Power to issue an identity card

11. (1) The Minister shall, subject to this Act, have the power to issue an identity card.

(2) Notwithstanding subsection (1), the Minister may delegate the power to issue an identity card to the Director or any other officer.

Information on an identity card

12. (1) An identity card shall bear the following information -

- (a) full names and surname of bearer;
- (b) nationality of bearer;

- (c) date of birth of bearer;
 - (d) sex of bearer;
 - (e) image of bearer;
 - (f) signature of bearer or thumb print;
 - (g) date and place of issue;
 - (h) expiration date;
 - (i) identity card control number;
 - (j) national identity number;
 - (k) name of the issuing authority; and
 - (l) any other information that the Minister may prescribe.
- (2) The chip of the identity card shall contain the following information -
- (a) place of birth of bearer;
 - (b) marital status;
 - (c) prints of the following fingers -
 - (i) right index;
 - (ii) right middle;
 - ;
 - (iii) left index; and
 - (iv) left middle;
 - (d) residential address;

- (e) next of kin;
 - (f) occupation; and
 - (g) any other information that the Minister may prescribe.
- (3) The form of the identity card shall be as prescribed.

Eligibility for identity card

13. The following persons are eligible to be issued with identity cards provided that they have attained the age of sixteen and their particulars have been entered in the Register -

- (a) a citizen of Lesotho; and
- (b) a non-citizen holding an indefinite residence permit of Lesotho.

Application for identity card

14. (1) A person referred to in section 13, who wants to obtain an identity card, shall make an application for an identity card to the Director in the prescribed form.

(2) An application made in accordance with subsection (1) shall be accompanied by the following -

- (a) a birth certificate or a certificate of naturalization or registration or an indefinite residence permit;
- (b) prints of all fingers of the applicant taken by an officer of the department responsible for identity cards;
- (c) a photo taken by an officer in the department responsible for identity cards; and
- (d) any other requirement or documentation that the Minister may prescribe.

Application for renewal or replacement of identity card

15. (1) A person whose identity card has expired, is lost, stolen or damaged, shall make an application for renewal or replacement of the identity card in the prescribed form to the Director .

(2) An application made in accordance with subsection (1), shall be accompanied by a prescribed fee, and except in the case of an expired identity card, a sworn declaration of the circumstances surrounding the loss, theft or damage of the identity card and the authority to which the identity card was reported.

Production of identity card to access all services

16. No person who is eligible to have an identity card shall access all services unless the person produces his or her identity card issued in accordance with this Act.

Cancellation and surrender of identity cards

17. (1) The Director shall cancel an identity card if -

- (a) the card was issued on reliance on inaccurate or incomplete information;
- (b) the card has been lost, stolen, damaged or tampered with;
- (c) a change of circumstances requires a change in the information recorded in or on the card; or
- (d) a person is deceased.

(2) A person who is in possession of an identity card that has expired, been cancelled or otherwise invalid shall surrender it.

(3) A person who ceases to be eligible to bear an identity card shall surrender it.

(4) An identity card of a deceased person shall be surrendered by the deceased's next of kin.

(5) A person may be allowed to keep an identity card of a deceased person upon a written request to the Director.

(6) In the circumstances stipulated in subsection (5), the department responsible for identity cards shall indicate, in the prescribed manner, on the identity card, that the card is cancelled.

Destruction of identity cards

18. Identity cards which have expired, are damaged or otherwise tampered with, shall be destroyed in the prescribed manner.

PART IV – OFFENCES AND PENALITIES

Offences and penalties

19. A person who -

- (a) for the purpose of this Act, intentionally furnishes false information;
- (b) having come into possession of an identity card which belongs to another person -
 - (i) presents it as his or hers; or
 - (ii) fails to hand it over to the bearer, the police, the Department responsible for identity cards or any other department of Government;
- (c) forges, alters, defaces, destroys, damages or allows another person to forge, alter, deface, destroy or damage his or her identity card;
- (d) allows his or her identity card or any other identity card in his or her possession to be used for an unlawful purpose;
- (e) is found in possession of a forged, altered, defaced, de-

- stroyed or damaged identity card;
- (f) issues or causes an identity card to be issued to any person who is not entitled to an identity card under this Act; or
- (g) publishes or communicates to any other person any information recorded in the Register,

in contravention of this Act, commits an offence and is, on conviction, liable to a fine of M25 000 or to imprisonment for a period of fifteen years or both.

PART V – MISCELLANEOUS

Power to make Regulations

20. The Minister may make regulations for giving effect to this Act.

Repeal

21. The National Identity Cards Act, 2004⁷ is repealed.

1. Act No. 22 of 1968
2. Act No. 16 of 1966
3. Act No. 22 of 1973
4. Act No. 10 of 1974
5. Act No. 18 of 1976
6. Act No. 6 of 1999
7. Act No. 3 of 2004

GOVERNMENT NOTICE NO. 21 OF 2011

Statement of Objects and Reasons of the National Identity Cards Act, 2011

(Circulated by the Authority of the Minister of Home Affairs, Public Safety and Parliamentary Affairs)

1. The purpose of the Bill is to repeal the National Identity Cards Act, 2004, to provide for the establishment of National Identity Register and issuance of National Identity Cards.
2. The National Identity Register shall contain biometric and personal information about all Lesotho citizens and non-citizens holding indefinite Lesotho residence permits, who have applied to be entered in the National Identity Register. Each entry in the National Identity Register will be assigned a unique number that is to be known as an Identity Number, that will appear on the National Identity Card.
3. People who are eligible for Identity Cards are Lesotho citizens and non-citizens holding indefinite Lesotho residence permits and have attained sixteen (16) years of age and those whose particulars have been entered into the National Identity Register.
4. In order to ensure the right to privacy of individuals as enshrined in the Constitution, the Bill provides for data privacy whereby the individual's data or information is to be treated with utmost care and confidentiality. This right to privacy, however, is curtailed in instances where verification of information is needed by Government Departments for the purpose of keeping law and order, public safety, health, prosecution or judicial proceedings and also where an individual has authorized disclosure of his or her data to a third party. The third party shall, however, not pass or publish the information to another under any circumstances.
5. The validity of the National Identity Card shall be fifteen (15) years, and for individuals to access public services they will be required to produce of valid Identity Cards.
6. The Bill provides that contravention of its provisions attracts punish-

ment, upon conviction by the courts of law, of imprisonment for a period of fifteen years or a fine of M25,000 or both.

